

DEPARTMENT OF SOCIAL SERVICES

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Sacramento, CA 95814
(916) 445-7964



November 25, 1981

ALL COUNTY INFORMATION NOTICE I-147-81

TO: ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL DSS ADOPTIONS DISTRICT OFFICES

SUBJ: Set-Asides of Adoption Decrees Under Civil Code Section 227b

The Department of Social Services has responsibility for investigating petitions to set-aside adoption, reporting to the court and representing the interests of the child. Set-aside petitions have increased from one or two a year until now when one or two petitions a month are filed. In all cases, it is necessary for the Department to review the case record of the adoption agency that made the adoptive placement.

When a petition to set-aside an adoption is filed, the Department has sixty (60) days from date of notification of filing of the petition in which to complete its report and recommendation to the court. This short time-frame means that agencies are requested to immediately forward a copy of their record to the Department.

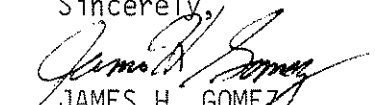
The prompt cooperation of licensed adoption agencies with the Department in these cases will be most helpful:

- 1) Please provide the entire agency adoption record, or a clear and complete copy of it, to the district office requesting it within five working days after receiving the request.
- 2) Please be prepared to offer testimony in case the worker (or, if the worker is no longer available, a responsible agency official) is called upon to provide information to the court. This information usually consists of describing the child and any physical or emotional problems that were present at time of placement and at the time the adoption was completed, and what information about the child was shared with the petitioners and in what manner.

District Office staff of the Independent and Intercountry Adoptions Bureau will provide assistance with procedures to any adoption agency not having prior experience with petitions to set-aside an adoption or otherwise needing assistance in preparing for the court hearing.

If you have any questions regarding this notice, please contact David Lee at (916) 323-0468.

Sincerely,


JAMES H. GOMEZ
Deputy Director

Attachment

welfare agency licensed by the State Department of Social Services whenever it is believed the welfare of a child will be promoted thereby.

Amended by Stats 1971 ch 1593 § 47.20, operative July 1, 1973; Stats 1977 ch 1252 § 72, operative July 1, 1978.

Amendments:

1971 Amendment: Substituted "Health" for "Social Welfare" wherever it appears.

1977 Amendment: Substituted "Social Services" for "Health" wherever it appears.

See note to § 224m.

Witkin Summary (8th ed) p 4707.

32 Cal Jur 3d Family Law § 139.

Restricting access to judicial records of concluded adoption proceedings. 83 ALR3d 800.

Restricting access to judicial records of pending adoption proceedings. 83 ALR3d 824.

§ 227b. [Vacation of adoption, on petition of adopting parent, where adopted child shown to be developmentally disabled or mentally ill]

If any child heretofore or hereafter adopted under the foregoing provisions of this code shows evidence of a developmental disability or mental illness as a result of conditions prior to the adoption to such an extent that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable, and of which conditions the adopting parents or parent had no knowledge or notice prior to the entry of the decree of adoption, a petition setting forth such facts may be filed by the adopting parents or parent with the court which granted the petition for adoption. If such facts are proved to the satisfaction of the court, it may make an order setting aside the decree of adoption.

The petition must be filed within whichever is the later of the following time limits: (a) within five years after the entering of the decree of adoption, or (b) within one year after the effective date hereof, if such a condition were manifest in the child within five years after the entering of the decree of adoption.

In every action brought under this section it shall be the duty of the clerk of the superior court of the county wherein the action is brought to immediately notify the State Department of Social Services of such action. Within 60 days after such notice the State Department of Social Services shall file a full report with the court and shall appear before the court for the purpose of representing the adopted child.

Added Stats 1972 ch 380 § 1.5, operative July 1, 1973; Amended Stats 1977 ch 1252 § 73, operative July 1, 1978; Stats 1978 ch 429 § 22, effective July 17, 1978, operative July 1, 1978.

Amendments:

1977 Amendment: (1) Substituted "Social Services" for "Health" wherever it appears in the third paragraph; and (2) deleted the former fourth paragraph which read: "This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative."

1978 Amendment: Substituted "developmental disability" for "mental deficiency" in the first paragraph.

Witkin Procedure 2d p 1113.

Witkin Summary (8th ed) pp 4717, 4718.

32 Cal Jur 3d Family Law §§ 133, 134.

Review of Selected 1972 Code Legislation. 4 Pacific LJ 426.

Note—Stats 1972 ch 380 also provides: § 3. It is the intent of the Legislature that if Reorganization Plan No. 1 of 1970 becomes operative, Section 227b of the Civil Code, as amended by Section 1 of this act, shall remain in effect only until Reorganization Plan No. 1 of 1970 becomes operative and on that date